



Department of Toxic Substances Control



Winston H. Hickox
Agency Secretary
California Environmental
Protection Agency

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Gray Davis
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February 26, 2002

J. Craig Williams, Esq.
Daehnke & Cruz
3333 Michelson Drive, Suite 800
Irvine, California 92612-1694

RE: Former Trent Tube Facility
2100 East Orangethorpe Avenue, Fullerton, California
EPA ID CAD008325110

Dear Mr. Williams:

The Department is in receipt of your letter of January 28, 2002, requesting transfer of the corrective action oversight of the above facility to the Orange County Environmental Health Division. We are also in receipt of the February 13, 2002, letter from Orange County declining to accept such a transfer.

The Department agrees with Orange County that such a transfer would be not merely inappropriate but counter to the requirements of the statute. Health and Safety Code section 25262(c)(1) lists the following factors which must be considered in making a lead agency determination:

- (A) The type of release that is the subject of site investigation and remedial action.
- (B) The nature of the threat that the release poses to human health and safety or to the environment.
- (C) The source of the release, the type of facility or activity from which the release occurred, the regulatory programs that govern the facility or activity involved, and the agency or agencies that administer those regulatory programs.
- (D) The regulatory history of the site, the types of regulatory actions or enforcement actions that have been taken with respect to the site or the facility or activity from which the release occurred, and the experience and involvement that various agencies have had with the site.
- (E) The capabilities and expertise of the agencies that are candidates for designation as the administering agency for the site and the degree to which

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those capabilities and that expertise are applicable to the type of release at the site, the nature of the threat that the release poses to health and safety or the environment and the probable remedial measures that will be required.

Health and Safety Code section 25262(c)(2) applies those factors to the various agencies and, at subsection (A), states:

The administering agency shall be the Department of Toxic Substances Control if one of the following applies:

- (i) The department has issued an order, or otherwise initiated action, with respect to the release at the site pursuant to Section 25355, 25355.5, or 25358.3.
- (ii) The department has issued an order for corrective action at the site pursuant to Section 25187.
- (iii) The source of the release is a facility or hazardous waste management unit or an activity that is, or was, regulated by the department pursuant to Chapter 6.5 (commencing with Section 25100).
- (iv) The department is conducting, or has conducted, oversight of the site investigation and remedial action at the site at the request of the responsible party.

Applying the above statutory requirements to the present situation, DTSC is the proper administering agency based on subsection (iii). In addition, as discussed below, subsection (ii) may also apply in the near future.

Trent Tube Company, a division of Crucible Materials Corporation, managed hazardous waste on the property until April 16, 1985, pursuant to an interim status document issued by the Department of Health Services on April 6, 1981. The interim status document implements the hazardous waste requirements pursuant to Chapter 6.5 of the Health and Safety Code.

Closure of the facility included removal of heavily impacted soils and aeration of lightly impacted soils contaminated with organic solvents, including TCA, TCE, and xylene. Aerated soils were placed back into the excavated area. No confirmation sampling was conducted. No groundwater sampling was conducted as part of the closure. Closure was certified by an independent registered engineer and approved by DHS on April 16, 1985.

Orange County Water District sampling wells in the area of the former Trent Tube facility show significant PCE and TCE contamination. PCE and TCE were used and released at the former Trent Tube facility.

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A local agency such as the Orange County Environmental Health Division may be the administering agency if it meets the requirements of Health and Safety Code section 25262(c)(2)(D):

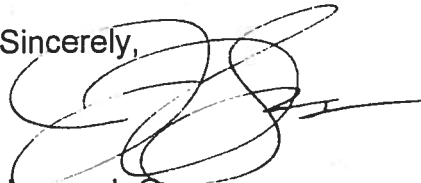
- (i) The source of the release at the site is an underground storage tank, as defined in subdivision (x) of Section 25281, the local agency is the agency described in subdivision (g) of Section 25281, and there is no evidence of any extensive groundwater contamination at the site.
- (ii) The local agency has accepted responsibility for overseeing the site investigation or remedial action at the site and a state agency is not involved.
- (iii) The local agency has agreed to oversee the site investigation or remedial action at the site and is certified, or has been approved, by a state agency to conduct that oversight.

Since none of the conditions set forth in subsection (D) apply to the Former Trent Tube facility and the local agency has declined to accept such a transfer, it is clear that there is no basis for your request.

A proposed Corrective Action Consent Agreement was mailed to your client on December 27, 2001. The Department remains willing to work with you and your client to achieve the necessary corrective action in the most efficient manner possible. This cooperation does not, however, extend to allowing continued delay. A unilateral order will issue on March 18, 2002, unless, on or before March 15, 2002, either (1) your client signs and returns the Corrective Action Consent Agreement or (2) a meeting is scheduled, and actually takes place, to discuss the Corrective Action Consent Agreement.

The meeting will take place at the DTSC Region 1 offices located at 8800 Cal Center Drive, Sacramento, California. The following dates are available: March 1 (morning only), 11, 13, 15 (morning only). Please contact Leona Winner at (916) 255-6679 to arrange a meeting date. You may contact me on all other matters at (916) 323-9864.

Sincerely,



James J. Grace
Staff Counsel

cc: See next page.